

Message Text

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TO USMISSION EC BRUSSELS
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AMEMBASSY BONN
AMEMBASSY BRUSSELS
AMEMBASSY DUBLIN
AMEMBASSY LONDON
AMEMBASSY PARIS
AMEMBASSY LUXEMBOURG
AMEMBASSY ROME
AMEMBASSY THE HAGUE
AMEMBASSY COPENHAGEN
USDEL MTN GENEVA
AMEMBASSY TOKYO

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E.O. 11652:N/A

TAGS: EC, ETRD

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SUBJECT: EC PROTESTS BUY AMERICA PROVISION IN PUBLIC WORKS
BILL

1. ON MAY 6 GERARD DE PAYRE AND ANNA SNOW OF EC DELEGATION
CALLED ON ANTHONY ALBRECHT, DIRECTOR OF EUR/RPE TO MAKE AN
ORAL DEMARCHE ON THE BUY AMERICA PROVISION IN THE PUBLIC
WORKS BILL. DE PAYRE NOTED THAT THE PROVISION WOULD EXTEND

THE APPLICATION OF BUY AMERICA STANDARDS TO PUBLIC WORKS PROJECTS UNDERTAKEN BY STATE AND LOCAL GOVERNMENTS UNDER THE BILL, GOING BEYOND THE BUY AMERICA ACT ITSELF WHICH APPLIES ONLY TO FEDERAL PROJECTS. DE PAYRE ADDED THAT A SIMILAR PROVISION MAY BE INCLUDED IN A WATER POLLUTION CONTROL BILL. HE CONCLUDED THAT A TREND SEEMED TO BE FORMING WHICH COULD BE DETRIMENTAL TO THE NEGOTIATION OF A GOVERNMENT PROCUREMENT CODE. ALBRECHT ANSWERED THAT THE ADMINISTRATION HAD ACTIVELY OPPOSED THE BUY AMERICA PROVISION IN THE PUBLIC WORKS BILL AND THAT WE WERE HOPEFUL THAT IT COULD BE KEPT OUT OF THE FINAL VERSION OF THE WATER POLLUTION BILL .

2. DE PAYRE LEFT THE FOLLOWING INFORMAL PAPER ON THE SUBJECT. BEGIN TEXT.

THE COMMUNITY IS CONCERNED BY THE INSERTION IN H.R. 11, OF A PROVISION WHICH WOULD ADD A NEW SUBSECTION (F) TO SECTION 106 OF THE LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT ACT OF 1976. THIS NEW SUBSECTION MAKES THE EXTENSION OF GRANTS TO STATE AND LOCAL GOVERNMENTS CONDITIONAL UPON THE APPLICATION OF BUY-AMERICAN STANDARDS WHEN USING SUCH GRANTS AND WOULD THUS CONSIDERABLY INCREASE THE SCOPE OF THE BUY-AMERICAN LEGISLATION.

THE COMMUNITY HAS SERIOUS MISGIVINGS AS TO THIS ASPECT OF H.R. 11 AT A TIME WHEN THE WORLD'S TRADING NATIONS ARE COMMITTED TO A MAJOR EFFORT TOWARDS THE REDUCTION OF NON-TARIFF BARRIERS IN THE FIELD OF GOVERNMENT PROCUREMENT. LIMITED OFFICIAL USE

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THE POLICY LINE EMBODIED IN THE NEW SUBSECTION (F) APPEARING IN H.R. 11 ALSO RUNS COUNTER TO EARLIER DECLARATIONS BY THE UNITED STATES IN THE OECD THAT ENTRY TO PUBLIC PROCUREMENT SHOULD PROGRESSIVELY BE MORE OPEN.

3. FYI. THE 4 BILLION DOLLARS PUBLIC WORKS BILL HAS BEEN PASSED BY CONGRESS AND SENT TO PRESIDENT CARTER. EXISTING BUY AMERICA LEGISLATION PROVIDES THAT FEDERAL CONSTRUCTION PROJECTS MUST USE AMERICAN MADE MATERIALS. THE BILL WOULD EXTEND THIS PROVISION TO STATE AND LOCAL GOVERNMENT PROJECTS FINANCED UNDER THE BILL. EXCEPTIONS ARE POSSIBLE WHEN AMERICAN MADE MATERIALS ARE NOT AVAILABLE. FOREIGN CONSTRUCTION FIRMS COULD BID FOR PROJECTS BUT WOULD HAVE TO USE AMERICAN MADE MATERIALS IF THEY WON THE CONTRACT. A WATER POLLUTION CONTROL BILL HAS PASSED HOUSE WITH A BUY AMERICA PROVISION. THE SENATE HOPES TO PASS ITS OWN VERSION OF THE BILL BEFORE THE AUGUST RECESS. DIFFERENCES WOULD OF COURSE HAVE TO BE RECONCILED IN CONFERENCE. CHRISTOPHER

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